

## REMARKS

Claims 1-10 and 13-16 are presently pending.

### **35 U.S.C. 101 Rejection**

Claims 1-10 have been amended in a manner believed to overcome the 35 U.S.C. 101 rejection set forth in the Office Action.

### **35 U.S.C. 102 Rejection**

Claims 13 and 15 have been rejected under 35 U.S.C. 102(e) as being anticipated by Leppek (US Patent 5,933,501).

The Patent Office (PTO) asserts that Leppek teaches all of the claimed features of claim 13. However, upon careful review, Leppek does not teach, "means for generating a random value for selecting the manipulating means to be employed during a given execution of said algorithm, such that output data produced thereby is unpredictable".

The Office Action identifies Leppek's different encryption operators as "a plurality of different manipulating means". Nevertheless, Leppek does not teach means for generating a random value for selecting an encryption means to be employed during a given execution of the algorithm. Leppek discloses an encryption key which is comprised of a sequence of access code entries made up of address code entries corresponding to the encryption operators. The encryption operators are selected according to a **determined sequence of access codes**, and not by a **random value**. Leppek's virtual encryption scheme produces a sequence of access address codes in a systematic manner, such that immediately successive codes in

the assembled code sequence are different from one another. In marked contrast, Applicant's manipulating means are selected using a random value.

For at least the same reasons, Leppek does not disclose the subject matter of claim 15.

To properly anticipate a claim, the document must disclose, explicitly or implicitly, each and every feature recited in the claim. See *Verdegaal Bros. v. Union Oil Co. of Calif.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). For the reasons discussed in detail above, Leppek does not meet this requirement, and withdrawal of this rejection is respectfully requested.

### **35 U.S.C. 103 Rejection**

Claims 14 and 16 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Leppek (US Patent 5,933,501) in view of Kocher (US. Patent 6,278,783).

However, Kocher does not qualify as prior art since the Applicant's application has a priority date of October 16, 1998 based on foreign application FR 98/12989. The Applicant has submitted herewith a verified english translation of the foreign application to submit to the Patent Office, in support of the priority claim. Kocher has a U.S. filing date of June 3, 1999, which is later than Applicant's priority date. Applicant respectfully requests withdrawal of the rejection.

Applicant respectfully submits that dependent claims 14 and 16 are further allowable for at least the same reasons discussed above with respect to independent claim 13. Moreover, these claims are further distinguishable over the applied reference for the reasons previously presented. See, for example, the Appeal Brief

filed June 28, 2007. For at least these reasons, and the reasons stated above with respect to Kocher, withdrawal of the rejection of dependent claims 14 and 16 is also respectfully requested.

**Conclusion**

Based on at least the foregoing remarks, Applicant submits that claims 1-10 and 13-16 are allowable, and this application is in condition for allowance. Accordingly, Applicant requests a favorable examination and consideration of the instant application. In the event the instant application can be placed in better form, Applicant requests that the undersigned attorney be contacted at the number below.

Respectfully submitted,

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